



HONG KONG MONETARY AUTHORITY  
香港金融管理局

Our Ref: B1/15C  
B9/124/1C

21 December 2017

The Chief Executive  
All Authorized Institutions

Dear Sir/Madam,

**Publication by the International Swaps and Derivatives Association, Inc. (“ISDA”) of a Hong Kong Country Annex to the ISDA 2015 Universal Resolution Stay Protocol (“the Protocol”)**

This letter is to bring to your attention that ISDA has published a Hong Kong Country Annex<sup>1</sup> to the Protocol on 20 December 2017. The HKMA welcomes the addition of the Hong Kong Country Annex, which extends the coverage of the Protocol to the Hong Kong resolution regime and represents an important step towards meeting an international commitment. Adherence to the Hong Kong Country Annex will improve the effectiveness of cross-border resolution from a Hong Kong perspective and the resolvability of systemically important banks operating in Hong Kong.

The Protocol has been developed by a working group of ISDA member institutions (including buy-side and sell-side institutions) in coordination with the Financial Stability Board (“FSB”). It is an industry initiative to reduce the risks associated with the potentially disorderly early termination of over-the-counter swaps and certain other financial contracts of a financial institution in resolution. This is achieved through the contractual recognition by the financial institution’s counterparties of stays and overrides of termination rights under certain resolution regimes. Such contractual recognition would complement the statutory provisions for stays and overrides of termination rights under those regimes.

The Hong Kong Country Annex addresses the application of the Protocol with

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<sup>1</sup>[https://www.isda.org/a/G15EE/ISDA-Universal-Protocol-Hong-Kong-Country-Annex\\_Publication-Version\\_20171220.pdf](https://www.isda.org/a/G15EE/ISDA-Universal-Protocol-Hong-Kong-Country-Annex_Publication-Version_20171220.pdf)

respect to the Hong Kong resolution regime established under the Financial Institutions (Resolution) Ordinance (Chapter 628 of the Laws of Hong Kong) (“FIRO”). The Hong Kong Country Annex provides a means for parties adhering to the Protocol to opt into the relevant provisions under the FIRO. Adherence to the Protocol and the Hong Kong Country Annex would provide for the contractual recognition of the relevant provisions under the FIRO, alongside the relevant provisions under resolution regimes in other jurisdictions that are covered by the Protocol.

While the Protocol (and the Country Annexes) is open to adherence by any entity on a voluntary basis, it specifically targets global systemically important banks (“G-SIBs”) designated by the FSB. The FSB and its members, including the HKMA, expect G-SIBs to adhere to the Protocol and additional Country Annexes as they become available. ISDA advises that an entity should seek legal advice and consult with its regulator before adhering to the Protocol. If an authorized institution (“AI”) has plans to adhere (or re-adhere) to the Protocol and the Country Annexes now that the Hong Kong Country Annex has been included, the HKMA would welcome bilateral discussion with the AI regarding its plans.

It should be noted that adherence to the Protocol (and the Country Annexes) does not on its own eliminate the risk to orderly resolution of a disorderly exercise of early termination rights in financial contracts. Further actions are required to reduce such risk. To this end, the HKMA expects to develop rules to require broader adoption of contractual recognition of stays pursuant to the relevant rule-making power under the FIRO, and intends to consult on the relevant policy proposals in 2018.

Yours faithfully,

Stefan Gannon  
Commissioner, Resolution Office

cc: The Chairperson, The Hong Kong Association of Banks  
The Chairman, The DTC Association

FSTB (Attn: Ms. Eureka Cheung)